

REMARKS

This application is filed to prosecute subject matter that was not elected in the parent case. The claims proposed in the present application are claims 20-34 and 37-40. Only three claims are independent. Claim 20 is independent and is directed to a method to evaluate a candidate protocol or drug using the basic technology of the invention; claim 37 is independent and is directed to a method to screen for a modulator or expression of a gene. Claim 39 is independent and directed to a method to screen for a multicellular organism that expresses a gene at an altered level. All three independent claims are directed to applications of the basic method that was allowed in the parent case – a method to monitor the expression of a gene. The invention lies in inserting a nucleotide sequence encoding a fluorophore protein under the control of an endogenous promoter whose function is to be evaluated. This assay system can be used conveniently in all three applications claimed in claims 20, 37 and 39. It is not believed burdensome to examine all pending claims.

Also unexamined in the parent were claims 11, 14 and 36 which are dependent claims ultimately from claim 1. It is not understood why these were considered separate inventions; however, in order to simplify prosecution of the present divisional, claims representing the three above mentioned applications of the invention technology are proposed.

Examination on the merits is respectfully requested.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to

charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 312762002710.

Respectfully submitted,

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